

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of GRACE ANN PEREZ and ROOD  
VAUGHAN III, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SARA VAUGHAN, a/k/a SARA PEREZ  
VAUGHAN,

Respondent-Appellant.

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UNPUBLISHED  
May 12, 2005

No. 257300  
Muskegon Circuit Court  
Family Division  
LC No. 01-030191-NA

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In the Matter of ROOD E. VAUGHAN III, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROOD E. VAUGHAN, JR.,

Respondent-Appellant.

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No. 257529  
Muskegon Circuit Court  
Family Division  
LC No. 01-030191-NA

Before: Cooper, P.J., and Jansen and Hoekstra, JJ.

PER CURIAM.

In these consolidated appeals, respondents Sara Vaughan and Rood Vaughan, Jr. appeal as of right the trial court's order terminating their parental rights to the minor children pursuant

to MCL 712A.19b(3)(c)(i) (failure to rectify conditions that led to adjudication) and (g) (failure to provide children with proper care and custody).<sup>1</sup> We affirm.

Unless the trial court finds that termination is clearly not in the best interest of the child, termination of parental rights is mandatory if the trial court finds that the petitioner has established at least one statutory ground for termination. *In re Trejo*, 462 Mich 341, 344; 612 NW2d 407 (2000). We review for clear error a trial court's determination that a statutory basis for termination has been established by clear and convincing evidence. *Id.* at 356-357. We also review the court's best interest determination for clear error. *Id.*

The conditions that led to adjudication regarding the minor child Grace were alleged acts of sexual abuse against a fifteen-year-old girl by a non-parent adult in the home, namely Senior, and respondents' subsequent failure to place the well-being of Grace over their relationship with Senior by removing the child from that home and refraining from any future contact with Senior. With respect to adjudication regarding the minor child Rood, respondents' unwillingness or inability to place Grace's well-being over and above their relationship with Senior constituted a lack of proper care or custody attributable to Rood through the doctrine of anticipatory neglect. See *In re Powers*, 208 Mich 582, 588-590; 528 NW2d 799 (1995).

As part of the trial court's plan for reunification, respondents were required to distance themselves from Senior to promote the children's well being. However, rather than comply with this requirement respondents opted to protect Senior by concealing their knowledge of his whereabouts during investigation into the sexual abuse allegations that spawned this case. Respondents also abducted and brought Grace back into close contact with Senior, continued to have frequent contact with Senior up to the time of the termination hearing, and clearly indicated that, in the absence of court involvement, they would allow contact between Senior and the children. Given respondents' violation of previous court orders, their promises at the termination hearing that they would sever all contact with Senior lacked credibility. Consequently, we do not conclude that the trial court clearly erred in finding that statutory grounds for termination had been established.

In reaching this conclusion, we reject respondents' assertion that compliance with the elements of their parent-agency agreement constitutes conclusive evidence of their ability to properly parent their children. Although respondents are correct that compliance with a treatment plan is evidence of such ability, see *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003), mere physical compliance with the elements of a parent-agency agreement is insufficient to avoid termination of one's parental rights. Rather, successful completion, which includes benefiting from the services offered, is required. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). Here, the record indicates that while respondents complied in form with many of the elements of the parent-agency agreement, they did not substantively benefit from such compliance. Indeed, the condition sought to be rectified was respondents' unwillingness to place the children's well-being over their relationship with Senior, and counseling services were

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<sup>1</sup> This case involves Rood Vaughan, Sr., respondent Rood Vaughan, Jr., and the minor child Rood Vaughan III. For clarity, these parties will hereinafter be respectively referred to as Senior, Junior, and Rood.

instituted to assist respondents in addressing this issue. However, the evidence showed that while respondents participated and made some progress in counseling, respondent mother discontinued counseling before reaching her goals. Testimony from respondents' counselors and therapists also showed that respondents refused to distance themselves from Senior's influence and that neither respondent was willing to prevent contact between Senior and the children, although required to do so under the parent-agency agreement.

We similarly reject respondents' claim that termination of their parental rights was premised more on the trial court's frustration with this case than a reasoned view of the evidence. Although the trial court was obviously frustrated with respondents, a review of the lower court record does not indicate that this frustration impaired the trial court's clear focus on the facts and issues in the case. The trial court did not err in finding that, despite respondents' promises to the contrary, there was no likelihood that the conditions leading to adjudication would be rectified within a reasonable time, MCL 712A.19b(3)(c)(i), or that there was no reasonable expectation that respondents would be able to provide proper care or custody within a reasonable time, MCL 712A.19b(3)(g).

Further, the evidence did not show that termination of respondents' parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo, supra*. With regard to Grace, the evidence showed that although she was initially very close to Sara, she did not have a parent-child bond with her stepfather, Junior. Indeed, Junior admitted that he did not parent Grace, but rather allowed Senior to be Grace's paternal figure. However, the record indicates that Grace began to distance herself from the entire Vaughan family in early 2003, part of which was attributable to her two years in foster care, and part to respondents' harassment of the foster family and the anxiety and inconvenience this caused Grace. By the time of termination, Grace clearly stated that she desired termination of respondents' parental rights.

Regarding Rood, we note that his temporary custody was based solely on anticipation of improper care in the future. The evidence showed that respondents loved Rood, interacted appropriately with him, and that there was no indication that Rood would lack the basic necessities with them. However, as noted above, the conditions creating a danger of improper care, i.e., the specter of sexual impropriety and respondents' refusal to separate themselves from the anti-social culture that stemmed from Senior's undue influence and permeated the Vaughan family in general, were never remedied. Respondents did not demonstrate a desire to make Rood's well being their priority, as shown by their continual harassment of everyone involved in this case during its 2½ year pendency below. Respondents' insistence over this period upon dwelling on the perceived wrongs perpetrated upon themselves and Senior, rather than working toward reunification clearly indicated that respondents placed their own interests and those of Senior over the well being of the children, and were not inclined to change their priorities.

Lastly, there is no evidence that the trial court improperly compared the children's foster home to respondents' home in making its best interests decision. Contrary to respondent mother's assertion, a complete review of the lower court record does not show that the trial court based its best interests decision on a comparison of homes, regardless of what may have been argued by the parties. Rather, the trial court focused on the length of time given respondents to rectify conditions, their failure to do so, and the need for permanence in the children's lives.

Affirmed.

/s/ Jessica R. Cooper

/s/ Kathleen Jansen

/s/ Joel P. Hoekstra